

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GLENN LEVY individually and  
derivatively on behalf of Trade Show  
Fabrications, Inc.,

**MEMORANDUM & ORDER**  
16-CV-2532 (EK) (ARL)

Plaintiff,

-against-

RONALD SUISSA, et al.,

Defendants.

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ERIC KOMITEE, United States District Judge:

Plaintiff brings this action pursuant to the Court's diversity of citizenship jurisdiction. Defendants move to dismiss for lack of subject matter jurisdiction because the Plaintiff was domiciled abroad when the case was filed. I referred this motion to Magistrate Judge Arlene R. Lindsay for a Report and Recommendation (R&R), which the Court received on March 19, 2021. ECF No. 117. Judge Lindsay found that Plaintiff, a U.S. citizen, was domiciled in Belize when he filed the original complaint in May 2016. She therefore recommended dismissal because, for purposes of diversity jurisdiction, United States citizens domiciled abroad are "neither citizens of any state of the United States nor citizens or subjects of a foreign state, and [28 U.S.C.] § 1332(a) does not provide that the courts have jurisdiction over a suit to which such persons

are parties." *Cresswell v. Sullivan & Cromwell*, 922 F.2d 60, 68 (2d Cir. 1990).

Neither party has filed objections to the R&R and the time to do so has expired. Accordingly, the Court reviews the R&R for clear error on the face of the record. See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); accord *State Farm Mut. Auto. Ins. Co. v. Grafman*, 968 F. Supp. 2d 480, 481 (E.D.N.Y. 2013). Having reviewed the record, the Court finds no clear error. I therefore adopt the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1).<sup>1</sup>

The case is dismissed for lack of jurisdiction. The Clerk of Court is respectfully directed to enter judgment and close this case.

SO ORDERED.

/s Eric Komitee  
ERIC KOMITEE  
United States District Judge

Dated: June 11, 2021  
Brooklyn, New York

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<sup>1</sup> On page 1, the R&R states that a motion to dismiss for "lack of personal jurisdiction" is before the Court. That line is hereby amended to state the motion is for "lack of subject matter jurisdiction."